

CITY OF PLEASANT HILL

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VARIANCE

Application Guide

WHAT IS A VARIANCE?

Each zoning district description in the city's Zoning Ordinance includes various standards regarding building setbacks from property lines, building heights, lot coverage, off street parking and other physical characteristics of development. There are occasions when the strict application of certain standards may be inappropriate because of special circumstances regarding the property. The variance procedure is intended to permit variations from the normal zoning regulation in cases where special or extraordinary circumstances occur at the property which present practical accommodation of the basic land use intended for the zone.

The purpose of a variance is not to permit a different land use than is normally permitted in the applicable zoning district. Rather, the intent is to provide for discretion and flexibility where the strict interpretation of the zoning ordinance would result in a practical difficulty or a unnecessary physical in carrying out the spirit and purpose of the ordinance.

Inconvenience and financial considerations are not grounds for granting a variance. Since approval of a variance takes time and expense, and must be justified by unique site conditions, you should consider redesigning the project to meet all zoning standards before submitting an application for a variance.

WHAT ARE THE SPECIFIC REVIEW CRITERIA FOR A VARIANCE?

The Zoning Ordinance requires the City to make specific findings on three issues concerning a variance. Positive finding must be made on the following:

1. The variance is based on the existence of special circumstances applicable to the property, including size, shape, topography, location or surroundings, such that the strict application of the zoning regulations deprives the property of privileges enjoyed by other properties in the vicinity under the identical zoning classification;

2. The variance does not constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located; and
3. The variance substantially meets the intent and purpose of the zoning district in which the property is located.

WHAT ARE THE STEPS?

Step 1 Preliminary Review - Prior to submittal of a formal application, it is recommended that the applicant discuss the preliminary proposal with staff. The staff can, if requested, respond back in writing regarding the project conformity with the Zoning Ordinance and General Plan, environmental and neighborhood concerns which may be involved, applicable site planning, building design, landscaping, application fee requirements, and other criteria.

Step 2 Filing the Application - Application for a variance should be made on the Community Development Department's Application for Development Review form. The application form must be accompanied by the additional supporting materials specified by the Community Development Department, including plans, drawings, and other project description information necessary to permit adequate review of the proposed action. A filing fee will be required for each Variance application in the amount set by the City Council.

A Community Development Department staff member will be assigned to review the application materials for completeness and to prepare a staff report to the Planning Commission. Additional information may be required as staff review of the project progresses.

Step 3 Environmental Review - Most variance applications must go through the City's Environmental Review Process. After submittal of a completed Environmental Information Questionnaire by the applicant, an Initial Study will be completed by the Community Development Department which consists of a preliminary evaluation of project relationships to the General Plan and Zoning Ordinance and its potentials for significant adverse environmental effects. If the Initial Study indicates no potential for significant environmental effects, a Negative Declaration (a brief statement describing why an environmental impact report is not required) will be recommended for Planning Commission approval. If, on the other hand, the Initial Study indicates that significant adverse environmental effects may occur, preparation of focused studies or an EIR may be required for Planning Commission approval.

Step 4 Planning Commission Review - The Planning Commission is required to hold at least one public hearing on the variance application. The hearing will be held within 45 days of the application filing date. At least 10 days prior to the hearing, and a notice mailed to all property owners and residents within 300 feet of the proposed use.

Following completion of required environmental documentation the Community Development Department will prepare a staff report which includes: (1) a description of the proposal; (2) a summary of its relationship to relevant General Plan and Zoning Ordinance provisions, as well as its environmental, land use, traffic, and other implications; and (3) related staff recommendations with respect to project approval. A copy of this report will be sent to the applicant during the week preceding the Planning Commission hearing. Copies will also be available for public review at the Community Development Department.

At the public hearing the staff will present its report and recommendations. Testimony from the applicant and other interested persons will also be permitted. The Planning Commission may then close the public hearing and make a decision to approve, conditionally approve, or deny the request, or may postpone the decision or may continue the public hearing to a later date so that more information can be provided. After a Planning Commission decision is made, that decision will become final within 10 days unless an appeal is filed as described below.

Step 5 Architectural Review - Following Planning Commission approval of the request, variances are also subject to the City's site plan and architectural review requirements. The Architectural Review Commission procedure has its own application guide which can be obtained from the Community Development Department. Applicants are encouraged to apply for all approvals at the time of their original application to allow concurrent processing.

Step 6 Building Permit Issuance - After 10 days have elapsed from the Planning Commission and Architectural Review Commission approval, whichever is later, and all application approval requirements and related ordinances have been complied with, the City Building Inspector may issue a Building Permit if one is required. The Building Inspector will then work to ensure that the project is completed in compliance with all permits, approved plans and related conditions.

Step 7 Business License - When the Planning Commission approves a variance application for a new commercial business, the permittee should wait 14 calendar days to apply for a Business License, thus allowing the appeal period to lapse. If an appeal has not been filed, then the permittee should apply and pay the necessary fee to the Finance Department for a Business License.

WHAT MUST BE SUBMITTED?

All submittal information required in the General Submittal Requirements Checklist shall be presented including the Application for Development Review form and related fees, to the Community Development Department before the application can be accepted as complete. A letter will be sent to the applicant within 30 days indicating whether the application is complete or incomplete (with reasons), along with the name of the planner processing the application.

MAY A DECISION BE APPEALED?

You or anyone else who is dissatisfied with the decision of the Planning Commission may appeal that decision to the City Council. To appeal, a written statement and filing fee must be filed with the Community Development Director within 10 days after the decision is made at a public meeting. A public hearing will then be set before the City Council to consider the appeal.

If no appeal to a decision is filed within 10 days, the decision will be final.

WHEN DOES THE PLANNING COMMISSION MEET?

The Planning Commission holds Public Hearings on the second and fourth Tuesday of every month. These meetings commence at 7:30 p.m. and are held in the Council Chambers of the City Hall.